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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/933,237	08/20/2001	Roger Kenneth Abrams	RPS920000049US1	5556

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EXAMINER

GURSHMAN, GRIGORY

ART UNIT PAPER NUMBER

2132

DATE MAILED: 01/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/933,237

Applicant(s)

ABRAMS, ROGER KENNETH

Examiner

Grigory Gurshman

Art Unit

2132

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED ^{17 Jan. My 2006} ~~20 December 2005~~ FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-27.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see enclosed Advisory Action.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s).
13. ☒ Other: Interview Summary Report


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ADVISORY ACTION (attachment)

1. Applicant states that he had an interview with the examiner on 11/15/2005 after the Final Rejection. Examiner points out that there was no official request for an interview and there was no After Final interview granted. Examiner had simply extended a courtesy of answering Applicant's question over the phone. The formal interview was held with SPE Barron.

2. The After Final amendment filed 12/20/2005 was not signed by the Applicant (see page 10) and accordingly was not entered.

3. With respect to the independent claims 1, 10 and 19 Applicant argues that the language of the claims such as for example "determining if the request was transmitted from a user space or a kernel space" is not found in Ogawa. Examiner respectfully disagrees and points out that, while Ogawa does not use the claim language verbatim, he teaches the features recited in the instant claims. For example:

Referring to the instant claims the limitation "receiving a request to provide a service from a user" is met by receipt of an input/output request from a user in a kernel space (see column 2, line 65 and Fig. 1). Ogawa shows that request is sent from the user space (40) to kernel (50) - see Fig. 2. The limitation "determining if the request was transmitted from a user space ... of the computer system" is met by request acceptance process depicted in Figs. 5A and 5B.

4. Referring to the independent claims 1, 10 and 19, Applicant argues that Ogawa does not meet some of the limitations of the instant claims, in particular the limitation

"...determining if the request from unauthenticated user fails to satisfy a security requirement...". Examiner respectfully disagrees and points out that Ogawa teaches that requests are analyzed and are not processed if they do not match the request list (see Fig. 5 and Fig.9).

5. Referring to claim 19, Applicant also argues that Ogawa does not teach a denial of the request. Examiner respectfully disagrees and point out that one of ordinary skill in the art would have equated *not processing* the request with *the denial* of the request. The request is not processed (see Fig. 2) and kernel is notified based on the invalid value (see Fig. 5).

6. Applicant further argues that the term "user kernel" is not defined in Applicant's specification and is inappropriately used in the rejection. Examiner points out that the independent claims recite the terms "user space" and "kernel space". Both of these features are clearly disclosed by Ogawa (see Fig. 1 for example).

7. Applicant further argues that *prima facie* case of obviousness has not been established since the examiner is relying upon an incorrect factual predicate in support for the rejection. Examiner respectfully disagrees with this assessment of the application of the prior art of record and points out that broad but reasonable interpretation of the claims is applied while the limitations from the specification, that Applicant is relying upon, are not read into the claims. Examiner states that the combination of Ogawa and Willman does render the claims 1-27 obvious because one of ordinary skill in the art would have been motivated to modify the information processing apparatus servicing request received from the user space by adding the functionality to determine if the

request meets the security requirements as taught in Willman for generating the exception an the interrupt of the execution of the user instructions (see Willman abstract and Fig. 7). Examiner points out that the motivation for combining the references is clearly provided by Willman.

8. Applicant points out the number of technological differences between the claimed invention and the prior art of record. While the alleged differences may exist, they are not reflected in the claims. The combination of Ogawa and Willman reads on the Applicant's claims. Applicant is encouraged to amend the claims in order to patentably distinguish the claimed invention from the art of record.

9. Rejections of claims 1-27 are maintained in view of the reasons presented herein.